

UNITED STATES PATENT AND TRADEMARK OFFICE

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U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TING INA YE et al.

Application 09/839,065

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on July 11, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith electronically returned to the examiner. The matters requiring attention prior to docketing are identified below.

A "Petition Under 37 CFR § 1.181 To Withdraw Finality of Office Action" (hereinafter "Petition") was filed on April 27, 2004. According to the Manual of Patent Examining Procedure (MPEP) (Eighth Edition, Rev. 1, Feb. 2003) § 1002.02(c), a petition under 37 CFR § 1.181 involving the prematureness of a

final rejection is to be decided by the Technology Center Director. There is no indication in the record that the Petition has been considered.

In addition, a corrected Appeal Brief was filed on December 23, 2004 in response to the "Notification of Non-Compliance with 37 CFR 1.192(c)" mailed on December 2, 2004. However, the new Appeal Brief is missing the "Evidence appendix" as set forth in 37 CFR § 41.37(c)(1)(ix). A supplemental brief that is in compliance with § 41.37(c) is required. For more information, see the United States Patent and Trademark Office website www.uspto.gov, and, in particular, the web page entitled "More Information on the Rules of Practice Before the Board of Patent Appeals and Interferences, Final Rule" located at the following URL:

www.uspto.gov/web/offices/dcom/bpai/fr2004/moreinfo.html

Accordingly, it is

ORDERED that the application is returned to the examiner:

1. for consideration of the Petition filed April 27, 2004 by the Technology Center Director;

2. for notification to appellants to file a supplemental Appeal Brief in compliance with 37 CFR § 41.37;
3. for consideration of the supplemental Appeal Brief;
4. to vacate the Examiner's Answer mailed January 14, 2005;
5. to provide a new Examiner's Answer in compliance with the new rules which went into effect on September 13, 2004;
6. for written notification to appellants regarding the action taken; and
7. for such further action as may be appropriate.

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By: 

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CRF/psb

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